

Original amendment submission date	Date of final publication	Citation/description
June 28, 1993	October 4, 1995, February 21, 1996.	WV Code 22-1-4 through -8; 22-2; 22-3-3, -5, -7, -8, -9, a, -11(a), (g), -12, -13, -15, -17, -18, -19, -22, -26, -28, -40; 22B-1-4 through -12; 22B-3-4; 22B-4; CSR 38-2-1.2, -2, -3.1(o), .4, .6, .7, .8, .12, .14, .15, .16, .25, .26, .27(a), .28, .29, .30, .31(a), .32, .33, .34, -4, .1(a), .2 through .12, -5.2, .4, .5, -6, .3(b), .6, .8, -8.1, -9, -11.1 through .7, -12.2, .3, .4(a), (2)(B), (c) through (e), .5, -13, -14.5, .8, .11, .12, .14, .15, .17, .18, .19, -15.2, -16.2, -17, -18.3, -20.1, .2, .4 through .7, -22; 38-2C-4, -5, -8.2, -10.1, -11.1; 38-2D-4.4(b), -6.3(a), -8.7(a).
April 2, 1996	July 24, 1996	CSR 38-2-4.12, -5.4(c), -12.2(e), -14.3(c), .14(e)(4), .15(m).

[62 FR 9957, Mar. 5, 1997]

§ 948.16 Required regulatory program amendments.

Pursuant to 30 CFR 732.17, West Virginia is required to submit the following proposed program amendments by the dates specified:

(a) By November 26, 1985, West Virginia must submit copies of proposed regulations or otherwise propose to amend its program to provide that all surface blasting operations (including those using less than five pounds and those involving surface activities at underground mining operations) shall be conducted under the direction of a certified blaster.

(b)-(cc) [Reserved]

(dd) By April 30, 1991, West Virginia shall submit proposed revisions to Subsection 38-2-9.3 of its surface mining reclamation regulations or otherwise propose to amend its program to establish productivity success standards for grazing land, pasture land and cropland; require use of the 90 percent statistical confidence interval with a one-sided test using a 0.10 alpha error in data analysis and in the design of sampling techniques; and require that revegetation success be judged on the basis of the vegetation's effectiveness for the postmining land use and in meeting the general revegetation and reclamation plan requirements of Subsections 9.1 and 9.2. Furthermore, by that date, West Virginia shall submit for OSM approval its selected productivity and revegetation sampling techniques to be used when evaluating the success of ground cover, stocking or production as required by 30 CFR 816.116 and 817.116.

(ee) By April 30, 1991, West Virginia shall submit documentation that the U.S. Soil Conservation Service (SCS)

has been consulted with respect to the nature and extent of the prime farmland reconnaissance inspection required under Subsection 38-2-10.1 of the State's surface mining reclamation regulations. In addition, the State shall either delete paragraphs (a)(2) and (a)(3) of Subsection 38-2-10.2 or submit documentation that the SCS State Conservationist concurs with the negative determination criteria set forth in these paragraphs.

(ff)-(nn) [Reserved]

(oo) By June 1, 1992, West Virginia shall submit proposed revisions to subsection 38-2-5.4(b)(8) of its surface mining reclamation regulations to require that excavated sediment control structures which are at ground level and which have an open exit channel constructed of non-erodible material be designed to pass the peak discharge of a 25-year, 24-hour precipitation event.

(pp)-(ss) [Reserved]

(tt) By June 1, 1992, West Virginia shall submit proposed revisions to subsections 38-2-5.4(b)(1) and 5.4(d)(1) to require that all structures be certified as having been built in accordance with the detailed designs submitted and approved pursuant to subsection 3.6(h)(4), and to require that as-built plans be reviewed and approved by the regulatory authority as permit revisions.

(uu)-(ww) [Reserved]

(xx) By August 1, 1996, West Virginia shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection CSR 38-2-14.8(a) to specify design requirements for constructed outcrop barriers that will be the equivalent of natural barriers and will assure the protection of water quality and insure the long-term stability of the backfill.

(yy)-(iii) [Reserved]

(jjj) By December 1, 1995, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22-3-11(g) of the Code of West Virginia and § 38-2-12.5(d) of the West Virginia Code of State Regulations to remove the limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites.

(kkk) By December 1, 1995, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to remove the provision of § 22-3-11(g) of the Code of West Virginia that allows collection of the special reclamation tax only when the special reclamation fund's liabilities exceed its assets.

(lll) By December 1, 1995, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to eliminate the deficit in the State's alternative bonding system and to ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites.

(mmm) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22-3-13(e) to limit the authorization for a variance from approximate original contour to industrial, commercial, residential, or public alternative postmining land use, in accordance with section 515(e)(2) of SMCRA.

(nnn) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B-1-7(d) to be consistent with SMCRA sections 514(d) and 525(c).

(ooo) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise § 22B-1-7(h) to be no less stringent than SMCRA

section 515(b)(10) and no less effective than the Federal regulations at 30 CFR 816.42, by requiring discharges to be controlled or treated without regard to economic feasibility.

(ppp) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38-2-1.2(c)(1) to require compliance with the Federal initial program regulations at Subchapter B or the West Virginia permanent program regulations as a prerequisite to the termination of jurisdiction over an initial program site.

(qqq) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38-2-2.20, or otherwise amend the West Virginia program to clarify that bond may not be released where passive treatment systems are used to achieve compliance with applicable effluent limitations.

(rrr) [Reserved]

(sss) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38-2-14.5(h) and § 22-3-24(b) to clarify that the replacement of water supply can only be waived under the conditions set forth in the definition of "Replacement of water supply," paragraph (b), at 30 CFR 701.5.

(ttt) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR § 38-2-14.19(d) to clarify that windrowing will not be allowed on the downslope in steep slope areas.

(uuu) By August 1, 1996, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise subsection 22.4(g) to require compliance with a PMP 6-hour standard, or demonstrate how the State would implement the PMP 24-hour standard at CSR 38-2-22.4(g).

(vvv) By January 15, 1997, West Virginia must submit either a proposed

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amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise the West Virginia program as follows:

(1) Amend the West Virginia program to be consistent with 30 CFR 701.11(e)(2) by clarifying that the exemption at CSR 38-2-3.8(c) does not apply to (1) the requirements for new and existing coal mine waste disposal facilities; and (2) the requirements to restore the land to approximate original contour.

(2) Amend CSR 38-2-4.12 to reinstate the following deleted language: "and submitted for approval to the Director as a permit revision."

(3) Amend the West Virginia program by clarifying that the requirements at CSR 38-2-5.4(c) also apply to slurry impoundments.

(4) Amend CSR 38-2-14.15(m), or otherwise amend the West Virginia program to require compliance with 30 CFR 816/817.81 (b), (d), and (e) regarding coal refuse disposal, foundation investigations and emergency procedures and to clarify that where the coal processing waste proposed to be placed in the backfill contains acid- or toxic-producing materials, such material must not be buried or stored in proximity to any drainage course such as springs and seeps, must be protected from groundwater by the appropriate use of rock drains under the backfill and along the highwall, and be protected from water infiltration into the backfill by the use of appropriate methods such as diversion drains for surface

runoff or encapsulation with clay or other material of low permeability.

[50 FR 28324, July 11, 1985 and 50 FR 38652, Sept. 24, 1985, as amended at 51 FR 9651, Mar. 20, 1986; 51 FR 40796, Nov. 10, 1986; 55 FR 21338, May 23, 1990; 56 FR 50269, Oct. 4, 1991; 56 FR 58311, Nov. 19, 1991; 60 FR 51918, Oct. 4, 1995; 61 FR 6536, Feb. 21, 1996; 61 FR 38387, July 24, 1996]

§948.20 Approval of State abandoned mine land reclamation plan.

The West Virginia Abandoned Mine Reclamation Plan as submitted on October 29, 1980, and as amended December 12, 1980, is approved effective February 23, 1981. Copies of the approved plan are available at the following locations:

(a) West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143.

(b) Office of Surface Mining, Charleston Field Office, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347-7158.

[50 FR 28324, July 11, 1985, as amended at 59 FR 17931, Apr. 15, 1994]

§948.25 Approval of West Virginia abandoned mine land reclamation plan amendments.

The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
May 20, 1985	July 11, 1985	Transfer of program authority to the Department of Energy (HB 1850). Agency structure, public participation procedures, assumption of emergency reclamation program.
December 30, 1987 ..	August 26, 1988	
September 17, 1991, October 25, 1991.	March 26, 1993	Amendments contained in House Bill 2492; Expanded eligibility criteria; Acid mine drainage treatment and abatement program.

[62 FR 9958, Mar. 5, 1997]